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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,590	02/23/2004	Douglas M. Baney	10030172-1	3186

7590 06/12/2006  
AGILENT TECHNOLOGIES, INC.  
Legal Department, DL429  
Intellectual Property Administration  
P.O. Box 7599  
Loveland, CO 80537-0599

EXAMINER
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TO, TUAN C

ART UNIT	PAPER NUMBER
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3663

DATE MAILED: 06/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/785,590	<b>Applicant(s)</b> BANEY, DOUGLAS M.	
	<b>Examiner</b> Tuan C. To	<b>Art Unit</b> 3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04/03/06, 12/09/05.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 15-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Applicant's election of claims 1-14 upon the elected Group I, species: "roadway conditions", "an acoustic signal", "stop light", "a roof", and "an acoustic transmitter", in the reply filed on 04/03/06 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-3, and 7-14 are rejected under 35 U.S.C. 102(a) as being anticipated by Chujoh et al. (US 20010017933A1).

With respect to claim 1, the U.S Patent No. '933A1 to Chujoh et al. has been cited as disclosing a traffic communication system, wherein the monitor camera section (1) shown in figure 2 is the claimed traffic control device. As clearly shown in figure2, the monitor camera section 1 comprises: a video camera (11) for determining the traffic data, which certainly includes the first system variable as claimed, a video encoder section (12) for encoding the system variable (data signal recorded from the video

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camera) as a first signal, and the transmitter section (13) is the transmitting device coupled to the encoder section (12) for transmitting the optical signal recorded from said to the monitoring center (2) (Chujoh et al., page 2, paragraph 0025).

The statements of intended use or field of use, "for determining...", "for encoding...", "for transmitting..." clauses are essentially method limitations or statements of intended or desired use. Thus, the claims as well as the statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See In re Pearson, 181 USPQ 641; In re Yanush, 177 USPQ 705; In re Finsterwalder, 168 USPQ 530; In re Casey, 512 USPQ 235; In re Otto, 136 USPQ 458; Ex parte Masham, 2 USPQ 2d 1647.

See MPEP § 2114 which states:

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ 2d 1647

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than functions. In re Danly, 120 USPQ 528, 531.

Apparatus claims cover what a device is not what a device does. Hewlett-Packard Co. v. Bausch & Lomb Inc., 15 USPQ2d 1525, 1528.

As set forth in MPEP § 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

With regard to claim 2, the video camera section (11) records the traffic density (or roadway conditions).

With regard to claim 3, Chujoh et al. disclose that the transmission section (13) transmit optical signal to the monitoring center (2).

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With regard to claim 7, as represented herein above, the monitor camera section (1) is the claimed traffic control device that consists of a traffic video camera (11).

With regard to claim 8, Chujoh et al. also disclose a traffic communication unit which is equipped with a motor vehicle (Chujoh et al, figure 1, terminal section (3)), and that the terminal section (3) includes a receiver (31) for receiving a signal from the monitoring center (2) (Chujoh et al, figure 7, receiver 31), a video decoder section (33) for decoding said signal (Chujoh et al., figure 7, video decoder section 33), and a display unit coupled to the decoder section (33) for outputting the traffic data from the control center (2).

The statements of intended use or field of use, "for receiving...", "for decoding...", "for outputting..." clauses are essentially method limitations or statements of intended or desired use. Thus, the claims as well as the statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See In re Pearson, 181 USPQ 641; In re Yanush, 177 USPQ 705; In re Finsterwalder, 168 USPQ 530; In re Casey, 512 USPQ 235; In re Otto, 136 USPQ 458; Ex parte Masham, 2 USPQ 2nd 1647.

See MPEP § 2114 which states:

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ 2nd 1647

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than functions. In re Danly, 120 USPQ 528, 531.

Apparatus claims cover what a device is not what a device does. Hewlett-Packard Co. v. Bausch & Lomb Inc., 15 USPQ2d 1525, 1528.

As set forth in MPEP § 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

With regard to claim 9, Chujoh et al. do not disclose that the receiver section (31) is located on the vehicle at one or more areas selected from the group consisting of a roof, a windshield, a hood, a headlight, a taillight, a bumper, a trunk, a hubcap, a rearview mirror, a side view mirror and a marker light, however, such feature is well known feature because the receiver section (31) with other electronic devices as a whole unit can be placed at one area as listed above for receiving the incoming signal is possible.

With respect to claim 10, as represented herein above, the system disclosed in Chujoh et al. includes the video camera (11) for recording the traffic data as the a system variable, the encoder section (12) is provided for encoding the signal from the video camera (11), and the transmission section (13) is provided for transmitting the encoded signal from the encoder section (12) (Chujoh et al, figure 2).

The statements of intended use or field of use, "for receiving...", "for encoding...", "for transmitting..." clauses are essentially method limitations or statements of intended or desired use. Thus, the claims as well as the statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See In re Pearson, 181 USPQ 641; In re Yanush, 177 USPQ 705; In re Finsterwalder, 168 USPQ 530; In re Casey, 512 USPQ 235; In re Otto, 136 USPQ 458; Ex parte Masham, 2 USPQ 2nd 1647.

See MPEP § 2114 which states:

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A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ 2d 1647

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than functions. In re Danly, 120 USPQ 528, 531.

Apparatus claims cover what a device is not what a device does. Hewlett-Packard Co. v. Bausch & Lomb Inc., 15 USPQ2d 1525, 1528.

As set forth in MPEP § 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

With regard to claim 11, Chujoh et al. disclose that the transmitter section (13) is an optical transmitter (Chujoh et al, figure 2; page 2, paragraphs 0025, 0026).

With regard to claim 12, Chujoh et al. also disclose a traffic communication unit which is equipped with a motor vehicle (Chujoh et al, figure 1, terminal section (3)), and that the terminal section (3) includes a receiver (31) for receiving a signal from the monitoring center (2) (Chujoh et al, figure 7, receiver 31), a video decoder section (33) for decoding said signal (Chujoh et al., figure 7, video decoder section 33), and a display unit coupled to the decoder section (33) for outputting the traffic data from the control center (2).

With regard to claim 13, Chujoh et al. also disclose a traffic communication unit which is equipped with a motor vehicle (Chujoh et al, figure 1, terminal section (3)), and that the terminal section (3) includes a receiver (31) for receiving a signal from the monitoring center (2) (Chujoh et al, figure 7, receiver 31), a video decoder section (33) for decoding said signal (Chujoh et al., figure 7, video decoder section 33), and a

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display unit coupled to the decoder section (33) for outputting the traffic data from the control center (2).

The statements of intended use or field of use, "for receiving...", "for decoding...", "for outputting..." (see claims 12 and 13) clauses are essentially method limitations or statements of intended or desired use. Thus, these claims as well as the statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See In re Pearson, 181 USPQ 641; In re Yanush, 177 USPQ 705; In re Finsterwalder, 168 USPQ 530; In re Casey, 512 USPQ 235; In re Otto, 136 USPQ 458; Ex parte Masham, 2 USPQ 2nd 1647.

See MPEP § 2114 which states:

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ 2nd 1647

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than functions. In re Danly, 120 USPQ 528, 531.

Apparatus claims cover what a device is not what a device does. Hewlett-Packard Co. v. Bausch & Lomb Inc., 15 USPQ2d 1525, 1528.

As set forth in MPEP § 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

With regard to claim 14, Chujoh et al. disclose that the terminal section (3) equipped with each vehicle shown in figure 1 includes another transmitter (37) for transmitting signal to another traffic communication unit coupled to another vehicle that includes a receiver section (31).



***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chujoh et al. (US 20010017933A1) and in view of Garnache et al. (US 20040165641A1).

With regard to claim 4, Chujoh et al. address the limitations of claim 1 except for the following: "said transmitter comprise a light emitting diode or a vertical cavity surface emitting laser".

The reference to Garnache et al. has been provided to overcome the missing feature from Chujoh et al. by teaching that optical transmitter (see Garnache et al, abstract) comprises a vertical cavity surface emitting laser (VECSEL) (see Garnache et al, page 5, paragraphs 0051 and 0056).

Hence it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Chujoh et al. to include the optical

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transmitter as taught in Garnache et al. so that driver on the street is capable to predict generally the traffic condition on a next route that the driver intend to travel to.

With regard to claim 5, Garnache et al. disclose that the optical transmitter includes the vertical cavity surface emitting laser that having focusing intra cavity lens (see Garnache et al, page 5, paragraph 0056).

The statements of intended use or field of use, "for steering..." clause is essentially method limitations or statements of intended or desired use. Thus, the claim as well as the statement of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See In re Pearson, 181 USPQ 641; In re Yanush, 177 USPQ 705; In re Finsterwalder, 168 USPQ 530; In re Casey, 512 USPQ 235; In re Otto, 136 USPQ 458; Ex parte Masham, 2 USPQ 2nd 1647.

See MPEP § 2114 which states:

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ 2nd 1647

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than functions. In re Danly, 120 USPQ 528, 531.

Apparatus claims cover what a device is not what a device does. Hewlett-Packard Co. v. Bausch & Lomb Inc., 15 USPQ2d 1525, 1528.

As set forth in MPEP § 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chujoh et al. (US 20010017933A1) and in view of Kuhara et al. (US 20040022540A1).

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The primary reference to Chujoh et al., as represented above, discloses the limitations of claim 1 except for the teaching of "transmitter further comprises a diffraction grating, for diffusing an optical output".

The statements of intended use or field of use, "for diffusing..." clause is essentially method limitations or statement of intended or desired use. Thus, the claim as well as the statement of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See In re Pearson, 181 USPQ 641; In re Yanush, 177 USPQ 705; In re Finsterwalder, 168 USPQ 530; In re Casey, 512 USPQ 235; In re Otto, 136 USPQ 458; Ex parte Masham, 2 USPQ 2nd 1647.

See MPEP § 2114 which states:

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ 2nd 1647

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than functions. In re Danly, 120 USPQ 528, 531.

Apparatus claims cover what a device is not what a device does. Hewlett-Packard Co. v. Bausch & Lomb Inc., 15 USPQ2d 1525, 1528.

As set forth in MPEP § 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

The reference to Kuhara et al. discloses an optical transmitter having a plurality of diffraction gratings (Kuhara et al, abstract) for diffusing optical outputs.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Chujoh et al. to include the teachings as taught in Kuhara et al in order to produce optical spectra by diffraction of reflected or transmitted light.

### ***Response to Arguments***

Applicant's arguments filed 12/09/2005 have been fully considered but they are not persuasive. The applicant argues in his response that the U.S reference to Chujoh et al. fails to disclose the recited traffic management module, and the encoded signals disclosed in Chujoh are different from the system variable recited in claim 1. The video camera (11) represented in figure 2 is described as a first traffic management module among the other modules (12, 13) that included in each camera section (1) installed in a monitor region. The video camera monitors the traffic, outputs video signal that is compressed by the encoder section (12), and then said encoded data is transmitted to the monitoring center (2). Therefore, the encoded data is a system variable that presents the traffic information.

It is important to note that the clause "for determining..." is a method limitation or the statement of intended use, therefore it does not serve to patentably distinguish the claimed structure over that of the reference. See In re Pearson, 181 USPQ 641; In re Yanush, 177 USPQ 705; In re Finsterwalder, 168 USPQ 530; In re Casey, 512 USPQ 235; In re Otto, 136 USPQ 458; Ex parte Masham, 2 USPQ 2nd 1647.

In addition, with regard to claims 4, 5, the Garnache et al. reference has been cited as teaching "transmitter comprise a light emitting diode or a vertical cavity surface emitting laser". It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the optical transmitter as taught in Garnache et al. to the traffic communication system as taught in Chujoh et al. so that a driver on a

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street is capable to predict various traffic conditions of a next route that the driver intends to travel to.

The reference to Kuhara et al. has been provided to overcome the deficiencies of Chujoh et al. by teaching a transmitter that comprises a diffraction grating, for diffusing an optical output. It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute "transmitter that comprises a diffraction grating" as taught in Kuhara et al to the traffic communication system of Chujoh et al. in order to produce optical spectra by diffraction of reflected or transmitted light.

According to that reasons, the art rejection cannot be withdrawn.

### ***Conclusions***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan C To whose telephone number is (571) 272-6985. The examiner can normally be reached on from 8:00AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/tc

June 05, 2006

  
JACK KEITH  
SUPERVISORY PATENT EXAMINER